

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
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mbm

April 2, 2020

Opposition No. 91248129

*Remus Repta*

*v.*

*Pablo Prichard*

**By the Trademark Trial and Appeal Board:**

On November 25, 2019, the Board granted, in part, and denied, in part, Applicant's motion to dismiss Opposer's notice of opposition for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6). The Board found that Opposer failed to plead a legally sufficient ground for opposition. Additionally, the Board noted a pending civil action between the parties and required Opposer to file a copy of the pleadings in the civil action within twenty days, so that the Board may determine whether suspension of this proceeding pending final determination of the civil action was warranted. Opposer did not timely comply with the Board's order.

In view thereof, Opposer is allowed until **twenty days** from the date of this order in which to file and serve an amended notice of opposition that pleads a valid claim for relief, as set forth in the Board's November 25, 2019 order, failing which, the notice

of opposition will be dismissed with prejudice. Within the same **twenty days**, Opposer must also submit copies of the complaint and answer in the civil action.

In turn, Respondent is allowed until **twenty days** from the date of service of the amended notice of opposition in which to file and serve an answer or otherwise respond to the amended pleading.

Proceedings herein are resumed. Remaining dates are reset as follows:

Deadline for Discovery Conference	6/11/2020
Discovery Opens	6/11/2020
Initial Disclosures Due	7/11/2020
Expert Disclosures Due	11/8/2020
Discovery Closes	12/8/2020
Plaintiff's Pretrial Disclosures Due	1/22/2021
Plaintiff's 30-day Trial Period Ends	3/8/2021
Defendant's Pretrial Disclosures Due	3/23/2021
Defendant's 30-day Trial Period Ends	5/7/2021
Plaintiff's Rebuttal Disclosures Due	5/22/2021
Plaintiff's 15-day Rebuttal Period Ends	6/21/2021
Plaintiff's Opening Brief Due	8/20/2021
Defendant's Brief Due	9/19/2021
Plaintiff's Reply Brief Due	10/4/2021
Request for Oral Hearing (optional) Due	10/14/2021

Generally, the Federal Rules of Evidence apply to Board trials. Trial testimony is taken and introduced out of the presence of the Board during the assigned testimony periods. The parties may stipulate to a wide variety of matters, and many requirements relevant to the trial phase of Board proceedings are set forth in Trademark Rules 2.121 through 2.125. These include pretrial disclosures, the manner and timing of taking testimony, matters in evidence, and the procedures for

submitting and serving testimony and other evidence, including affidavits, declarations, deposition transcripts and stipulated evidence. Trial briefs shall be submitted in accordance with Trademark Rules 2.128(a) and (b). Oral argument at final hearing will be scheduled only upon the timely submission of a separate notice as allowed by Trademark Rule 2.129(a).

**TIPS FOR FILING EVIDENCE, TESTIMONY, OR LARGE DOCUMENTS**

The Board requires each submission to meet the following criteria before it will be considered: 1) pages must be legible and easily read on a computer screen; 2) page orientation should be determined by its ease of viewing relevant text or evidence, for example, there should be no sideways or upside-down pages; 3) pages must appear in their proper order; 4) depositions and exhibits must be clearly labeled and numbered – use separator pages between exhibits and clearly label each exhibit using sequential letters or numbers; and 5) the entire submission should be text-searchable. Additionally, submissions must be compliant with Trademark Rules 2.119 and 2.126. Submissions failing to meet all of the criteria above may require re-filing. **Note:** Parties are strongly encouraged to check the entire document before filing.<sup>1</sup> The Board will not extend or reset proceeding schedule dates or other deadlines to allow time to re-file documents. For more tips and helpful filing information, please visit the [ESTTA help](#) webpage.

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<sup>1</sup> To facilitate accuracy, ESTTA provides thumbnails to view each page before submitting.